IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2006

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THE HONOURABLE MR. JUSTICE D. MURUGESAN

W.P.No. 4980 of 2006
and W.P.M.P.No.5349 of 2006

E.Ramalingam .. Petitioner

vs

1. The Director of Collegiate Education
College Road, Chennai-6.

2. The Regional Joint Director of Collegiate
Education, Tiruchirapalli Region,
Tiruchirapalli-2. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus, directing the respondents to sanction the claim made by the petitioner for medical assistance for his PTCA Stenting that was done to the petitioner on 22.04.2004.

For petitioner .. Mr.R. Balakrishnan
For respondents .. Mr.K. Balu
Addl. Govt. Pleader

ORDER

Though W.P.M.P.No.5349/2006 is listed today for hearing, by consent of both parties, the main Writ Petition itself is taken up for final disposal.

2. The petitioner while he was working as a Lecturer in Physics(SG) in A.V.C. College (Autonomous) Mannampandal, Mayiladuthurai, suffered a heart attack on 7.4.2004. He was admitted in Vijaya Hospital, Chennai, one of the recognised Private Speciality Hospitals for heart ailments. As per the advise of the Doctors, PTCA Stenting was done on 22.4.2004. The petitioner had spent a sum of Rs.1,33,234/- for the treatment. After the treatment, the petitioner was involved in the admission process during May,2004 and June,2004. He made the claim on 19.7.2004 to the respondents for medical assistance of Rs.99,975/-

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being 75% of the claim. The said application was returned by the respondents by order dated 3.8.2004. The reason for refusal to accept the claim of the petitioner is that the petitioner had not made the application within the period of 60 days from the date of discharge and the petitioner has taken treatment in Vijaya Heart Foundation which is not included in the Government Order. It is also stated that the medical claim is permissible only for open heart surgeries and not for the treatment Angioplasty/PTCA Stent.

3. Heard Mr. R. Balakrishnan, learned counsel appearing for the petitioner and Mr.K.Balu,learned Additional Government Pleader appearing for the respondents.

4. For streamlining and approval of the medical claims, the Government issued G.O.Ms. No.400 Finance(Salaries) Department dated 29.8.2000. Of course, Schedule to the said Government Order, prescribes certain ailments for which reimbursement was permitted and the claim should also be made within a period of 60 days from the date of discharge. The Government Order also specifies the name of hospitals for entitlement to claim reimbursement by the claimant for having taken treatment.

5. Insofar as the belated claim, I am of the considered view that the petitioner was admitted in the hospital on 7.4.2004 due to heart attack and he underwent PTCA Stenting on 22.4.2004 and he was discharged on 25.4.2004 at the fag end of the academic year. Thereafter, he was involved in the admission process in the college till the month of June,2004. For the said reason, he could not make the claim immediately and has made the same on 19.7.2004 i.e., after a delay of 23 days. In my opinion, in matters like this, the time limit prescribed cannot be strictly construed as the Government order is only a beneficial executive order in favour of those who are entitled to claim medical reimbursement. Denying such benefit purely on technical ground of delay, in my view, would be denying the very right to which such persons are entitled to claim the benefit of the Government Order. Moreover, I am convinced with the reason adduced by the petitioner for not making the claim in time.

6. The other reason for rejecting the claim of the petitioner that the G.O.Ms. No.400 does not include either Vijaya Heart Foundation or PTCA Stent for entitlement to make reimbursement, I am of the considered view that the same is unreasonable and cannot be accepted. Infact, my attention is drawn to the subsequent Government Order issued by the Government in G.O. No.556 Finance (Salaries) Department on 8.11.2004 including not only the Vijaya Heart Foundation as one of the recognised hospitals but also the entitlement for Angioplasty/PTCA Stent as one of the treatment for the claim to be made.

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7. In matters like this, the Government Orders should not be strictly construed as on the date when the Government Order was issued, the treatment viz., PTCA Stent could not have been invented or introduced. In recent days, the concept of treating ailments, has advanced so much, thanks not only to the Speciality Hospitals, Doctors specialized in the modern/advance treatments, but also the advanced techniques in method of treatment with use of sophisticated equipments. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expertised both on academic qualifications and experience gained. Very little scope is left to the patient or his relative to decide as to manner in which the ailment should be treated.

8. In regard to the reasons as to the non inclusion of the Hospital in Government Order for denial, this Court cannot brush aside the advancement in modern medical treatment. Speciality Hospitals are established for treatment for specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive the beneficial order of the Government, solely on the ground that the said Hospital is not included in the Government Order. It cannot be so, as the Government Order should be read keeping the purpose for which the same was issued. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once,it is established, the claim cannot be denied on technical grounds as found in the impugned order. Having regard to the above lacunae in the earlier Government Order and issuance of subsequent Government Order including not only the treatment but also the hospital, I am of the view that the petitioner is entitled to claim reimbursement.

9. For the above reasons, I am of the view that the order dated 3.8.2004 rejecting the request of the petitioner for medical reimbursement cannot be sustained and the reasons cannot be the basis for denial of such claim. Accordingly, the Writ Petition is allowed and the first respondent is directed to consider the claim of the petitioner as contained in his Claim dated 19.7.2004 for medical reimbursement on merits and in accordance with law and without reference to the above three reasons mentioned in the Order dated 3.8.2004 and pass orders within a period of six weeks

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from the date of receipt of this order or on production of the same by the petitioner. No costs. Consequently,W.P.M.P.No.5349 of 2006 is closed.

vbs

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Director of Collegiate Education
   College Road, Chennai-6.

2. The Regional Joint Director of Collegiate
   Education, Tiruchirapalli Region,
   Tiruchirapalli-2.

+ 1 cc to Government Pleader SR No.27229

+ 1 cc to Mr.R. Balakrishnan, Advocate SR No.26900

AK(CO)
SR/30.6.2006 W.P.No.4980/2006

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